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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/586,922	07/24/2006	Atsushi Matsutani	292901US8PCT	8179
22850 7590 12/16/2008 OBLON, SPIVAK, MCCLELLAND MAIER & NEUSTADT, P.C. 1940 DUKE STREET ALEXANDRIA, VA 22314				
EXAMINER ROBINSON, GRETA LEE				
ART UNIT		PAPER NUMBER		
2169				
NOTIFICATION DATE		DELIVERY MODE		
12/16/2008		ELECTRONIC		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

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Office Action Summary

Application No.

10/586,922

Applicant(s)

MATSUTANI, ATSUSHI

Examiner

Greta L. Robinson

Art Unit

2169

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 24 July 2006.
2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-13 is/are pending in the application.
4a) Of the above claim(s) _____ is/are withdrawn from consideration.
5) ☐ Claim(s) _____ is/are allowed.
6) ☒ Claim(s) 1-13 is/are rejected.
7) ☐ Claim(s) _____ is/are objected to.
8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
10) ☒ The drawing(s) filed on 24 July 2006 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☒ Information Disclosure Statement(s) (PTO/SI/88)
Paper No(s)/Mail Date 7/24/06, 11/21/07 & 3/10/08
4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____

DETAILED ACTION

1. Claims 1-13 are pending in the present application.

Information Disclosure Statement

2. The information disclosure statement (IDS) submitted on March 10, 2008, November 21, 2007 and July 24, 2006 are in compliance with the provisions of 37 CFR 1.97. Accordingly, the information disclosure statements have been considered by the examiner, note attached copies of form PTO-1449.

Drawings

3. The drawings are objected to because Figure 3 contains partial views, note element tables TB, TB2 and TB3 are not shown as coupled or connected. The examiner suggests use of a bracket to clarify a single view with respect to numbering of Figures. See 37 CFR 1.84(h) and 37 CFR 1.84(u). Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary

to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

4. INFORMATION ON HOW TO EFFECT DRAWING CHANGES

Replacement Drawing Sheets

Drawing changes must be made by presenting replacement sheets which incorporate the desired changes and which comply with 37 CFR 1.84. An explanation of the changes made must be presented either in the drawing amendments section, or remarks, section of the amendment paper. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). A replacement sheet must include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of the amended drawing(s) must not be labeled as "amended." If the changes to the drawing figure(s) are not accepted by the examiner, applicant will be notified of any required corrective action in the next Office action. No further drawing submission will be required, unless applicant is notified.

Identifying indicia, if provided, should include the title of the invention, inventor's name, and application number, or docket number (if any) if an application number has not been assigned to the application. If this information is provided, it must be placed on the front of each sheet and within the top margin.

Annotated Drawing Sheets

A marked-up copy of any amended drawing figure, including annotations indicating the changes made, may be submitted or required by the examiner. The annotated drawing sheet(s) must be clearly labeled as "Annotated Sheet" and must be presented in the amendment or remarks section that explains the change(s) to the drawings.

Timing of Corrections

Applicant is required to submit acceptable corrected drawings within the time period set in the Office action. See 37 CFR 1.85(a). Failure to take corrective action within the set period will result in ABANDONMENT of the application.

If corrected drawings are required in a Notice of Allowability (PTOL-37), the new drawings MUST be filed within the THREE MONTH shortened statutory period set for reply in the "Notice of Allowability." Extensions of time may NOT be obtained under the provisions of 37 CFR 1.136 for filing the corrected drawings after the mailing of a Notice of Allowability.

Claim Objections

5. Claims 10-13 are objected to because of the following informalities: the introductory term "the" should read "a" so as to clarify claim limitation does not lack antecedent basis [see: claim 10 lines 2-7 (i.e. "the keyword registration step" should read "a keyword registration step"); claim 11, lines 2-12; and claim 12 lines 3-8; and claim 13 lines 3-21] . Appropriate correction is required.

Claim Rejections - 35 USC § 101

6. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

7. Claim 10 is rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter. Claim 10 is directed to a process, however in order to be in compliance with 37 CFR 101 a process claim must (1) be tied to another

statutory class (such as a particular apparatus) or (2) transform underlying subject matter (such as an article or materials) to a different sites or thing. If neither of these requirements are met by the claim, the method is not a patent eligible process under § 101 and should be rejected as being directed to non-statutory subject matter. In the present case the claim does not positively tie the statutory class to a particular hardware element which would make the method steps tangible.

Claim Rejections - 35 USC § 112

8. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

9. Claims 1-6 are rejected under 35 U.S.C. 112, second paragraph, as being incomplete for omitting essential elements, such omission amounting to a gap between the elements. See MPEP § 2172.01. The omitted elements are: regarding independent claim 1, the claim omits a search operation and display or transmission of the search results to the end user. Claims 2-6 are rejected based on dependency.

Claim Rejections - 35 USC § 102

10. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the

applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

11. Claims 1-13 are rejected under 35 U.S.C. 102(e) as being anticipated by Kanemitsu et al. US Patent 6,928,262 B1.

Regarding claim 1, **Kanemitsu** teaches a program search system [note: "A broadcast receiving device which clearly indicates supplemental information transmitted along with broadcast content, and which **facilitates program search**" abstract] comprising:

a keyword registration means for registering a keyword for showing the user's preference in broadcast programs [note: column 3 line 63 through column 4 line 11
keyword mode switching means provides ability to obtain **registered keywords** for topic information search registered keywords are stored as keywords in keyword storing means; Figures 25-25; col. 3 lines 56-57];

communication means for retrieving broadcast content information including the titles of said broadcast programs that will be broadcasted by one or more broadcasting stations [note: Figure 1 (17) input device; and **processor means** column 2 lines 59-67];
and

detection means for detecting the appearance frequency of said keyword by said broadcast programs, in the broadcast content information received by said communication means [note: Figure 1 310 EIT analyzer column 8 line 62 through column 9 line 19 music is detected through the content descriptor 101; also note column 10

lines 18-49 selection **frequency storing unit** for storing a selection frequency related to each topic].

12. Regarding claim 2, "said detection means specifies a broadcast program according to the appearance frequency of said keywords" [see: column 10 lines 18-49 selection **frequency storing unit** for storing a selection frequency related to each topic].

13. Regarding claim 3, "said detection means generates the ranking of said broadcast programs in the descending order" [note: priority ranks are assigned see column 10 lines 19-36; also ranking priority table Figure 21; column 11 lines 28-32].

14. Regarding claim 4, "search condition setting means ... and said communication means transmits request information ..." [note: column 3 lines 1-9 search processing means; column 13 lines 25-39].

15. Regarding claim 5, "said communication means transmits request information ... storage means ... and said detection means detects the appearance frequency of said keyword by said broadcast programs" [note: column 2 lines 42-44 memory means stores program; Figure 1 (9) memory device; column 10 lines 19-50].

16. Regarding claim 6, "said communication means receives electronic program listings formed by broadcast content information ..." [note: column 11 lines 5-20].

17. The limitations of claims 10 and 12 parallel system claim 1; therefore they are rejected under the same rationale.

18. Regarding claim 7, Kanemitsu teaches the following limitations: "a storage medium for storing broadcast information" see Figure 1 (9) memory device; "receiving means for receiving search condition" note Figure 1 917) and processor means column 2 lines 46-67; "search means for searching" note column 3 lines 1-9; "detection means for detecting frequencies" see column 8 line 62 through column 9 line 19 music is detected through the content descriptor 101; also note column 10 lines 18-49 selection frequency storing unit for storing a selection frequency related to each topic ; and "transmission means" column 3 lines 10-17.

19. Regarding claim 8 and 9, detection means generates information to specify a broadcast program, according to the appearance frequency ... said detection means generates a ranking [see: column 10 lines 19-50].

20. The limitations of claims 10 and 12 parallel system claim 1; therefore they are rejected under the same rationale.

21. The limitations of claims 11 and 13 parallel system claim 7; therefore they are rejected under the same rationale.

Conclusion

22. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Nikolovska et al. US Patent 6,473,751 B1

Yamato US Patent Application Publication No. 2002/0133506 A1

Chimura US Patent Application Publication No. 2004/0148280 A1

Kizuka US Patent Application Publication No. 2003/0084037 A1

23. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Greta L. Robinson whose telephone number is (571)272-4118. The examiner can normally be reached on M-F 9:30AM-6:00PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tony Mahmoudi can be reached on (571)272-4078. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Greta L. Robinson/
Primary Examiner, Art Unit 2169a
December 09, 2008